

REMARKS

In the recent Office Action, claims 1-24, 26 and 28 were rejected under 35 U.S.C. § 102(e) in view of U.S. Patent No. 6,455,449 to Veiga. Claims 25, 27 and 29 were also rejected in view of Veiga under 35 U.S.C. § 103. In response, Applicant submits that Veiga is not available as prior art under § 102(e) in view of the Declaration under Rule 131 filed previously (copy attached as Appendix A).

The Office Action states that the previously filed Declaration was defective because it was not signed by the inventor. Please note, however, that the inventor refuses to sign the Declaration.

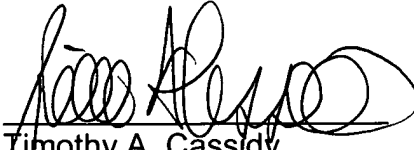
More particularly, the inventor, Alonzo Beasley, Jr., is no longer employed with the assignee of record. Mr. Beasley was presented with the prepared Declaration under 37 CFR 1.131. Mr. Beasley, however, refused to sign the Declaration. Further, his reasons for refusing to sign the Declaration were personal in nature and were not based on any objections to the veracity of the statements contained in the Declaration.

According to § 715.04 of the Manual of Patent Examining Procedure, the assignee or other party of interest may make the affidavit or Declaration under 37 CFR 1.131 when it is not possible to produce the affidavit or Declaration of the inventor. Since, as explained above, it is not possible to produce the Declaration of the inventor in this instance, it is respectfully requested that the Declaration signed by the assignee of record be accepted.

In the Office Action, the claims were also objected to under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent No. 6,632,753. The assignee of record agrees to submit a properly executed Terminal Disclaimer upon the resolution of all other issues.

In summary, Applicant submits that the present application is in complete condition for allowance and favorable action is therefore respectfully requested. Should any issues or questions arise after review of this response, however, then Examiner Singh is invited and encouraged to telephone the undersigned at her convenience.

Respectfully submitted,



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Date

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